

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

JAMES HULSEY, #1118103

§

VS.

§

CIVIL ACTION NO. 6:13cv623

RICK THALER, ET AL.

§

ORDER OF DISMISSAL

Plaintiff James Hulsey, an inmate confined at the Skyview Psychiatric Facility of the Texas prison system, filed the above-styled and numbered civil rights lawsuit pursuant to 42 U.S.C. § 1983. Hulsey stated that he is a chronic psychiatrically ill inmate and is taking antipsychotic medication. The Skyview Unit is air-conditioned. He fears that he will be released from the Skyview Unit to a unit without air-conditioning, which could lead to a heat stroke and death. He wants a permanent injunction ordering the prison system to provide an air-conditioned chronic care facility for psychiatric inmates after they are released from the Skyview Unit. The complaint was referred to United States Magistrate Judge John D. Love, who issued a Second Report and Recommendation concluding that the lawsuit was too speculative to warrant injunctive relief. A recommendation was made to dismiss the lawsuit pursuant to 28 U.S.C. § 1915A(b)(1).

Hulsey has filed objections. He reiterated that he is psychiatrically ill and suffers from a mental disorder of the schizoaffective depressive type. He once again expressed a fear of being released to facility that is not air-conditioned, which could lead to a heat stroke or death. However, as explained in the Second Report and Recommendation, his fear of being released from the Skyview Unit to a unit that is not air-conditioned is too speculative to warrant injunctive relief.

The Second Report of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by Hulsey, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections raised by Hulsey are without merit. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the civil rights complaint is **DISMISSED** with prejudice pursuant to 28 U.S.C. § 1915A(b)(1). All motions not previously ruled on are hereby **DENIED**.

So ORDERED and SIGNED this 10th day of December, 2013.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE